

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.10.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.25731 of 2018

PCM World Exports
Rep. by its Proprietor
Mr.Abdul Majeed

..Petitioner

Vs

- 1.The Assistant Commissioner of Customs
UCC Section, Customs House
60, Rajaji Salai, Chennai-600 001.
- 2.Matex Net Pvt. Ltd.,
Karpagam Avenue
Raja Annamalaipuram
Chennai-600 028.
- 3.The Food Safety & Standards Authority of India (FSSAI)
Ministry of Health & Family Welfare
2nd Floor, Central Documentation Complex
South Wing, Chennai Port Trust Building
Rajaji Salai, Chennai-600 001.
- 4.The Central Food Technological Research Institute
Council of Scientific & Industrial Research
Ministry of Science & Technology
Government of India, Mysuru - 570 020.
- 5.The Food Safety & Standards Authority of India (FSSAI)
Ministry of Health & Family Welfare Department,
Kotta Road, FDA Bhavan,
New Delhi - 110 002.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to send the fresh apples contained in 3 containers bearing Nos.TRIU 8516130, TCLU1000404, CXRU1004808 having 3129 cartons weighing about 65,709kg under IGM No.2199246/05.07.2018 to the 4th respondent for obtaining a fresh report immediately and further direct the 1st respondent to take follow-up action, based on the same.

For Petitioner : Mr.K.Raja

for Mr.N.Kolandaivelu

For Respondents: Mr.T.L.Thirumalaisamy

Central Government Standing Counsel

O R D E R

Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel takes notice for the respondents. By consent of parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed for mandamus, directing the first respondent to send fresh apples contained in 3 containers bearing Nos.TRIU 8516130, TCLU1000404, CXRU1004808 having 3129 cartons weighing about 65,709 kg under IGM No.2199246/05.07.2018 to the 4th respondent for obtaining a fresh report immediately and further direct the 1st respondent to take follow-up action, based on the same.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. The petitioner, though stated to be in the business of import and export of fruits and vegetables, admittedly, is not the importer of the subject matter goods viz., "Fresh Apples". It is stated that the above said goods was imported by a 3rd party importer from USA on 17.04.2018 through 3 containers and the same reached Chennai Port on 07.07.2018. It is further stated that the importer of the said goods did not clear the same from the Customs and thus, abandoned the goods. Consequently, the Department of Customs in order to recover the unpaid customs duty and container's charges etc., sought to auction the goods, through e-auction. However, the fifth respondent sent a communication dated 05.09.2018 to the first respondent stating that the subject consignment was inspected by the Inspecting Officer of the fifth respondent on 24.08.2018 at the CFS location and as per the inspection report, the product in all the three containers, pertaining to the consignment, are found rotten/spoiled with presence of mold growth and not found fit for drawing samples. Therefore, the fifth respondent informed the first respondent that FSSAI clearance cannot be issued for the product in the subject consignment. Under the above circumstances, the petitioner has approached this Court and filed the present writ petition with the relief as stated supra.

5. The learned counsel for the petitioner contended that if one more sample test is conducted, certainly, it would prove that the goods are fit for human consumption and therefore, e-auction as proposed can be conducted.

6. I do not think that the petitioner, being the intended person to participate in e-auction, is entitled to seek for a direction to the authorities, as sought for in this writ petition, more particularly, when the fifth respondent has already conducted the inspection and submitted a report stating that the subject matter product under import are found rotten/spoiled with presence of mold growth and not found fit for drawing samples. Admittedly, the imported goods are apple fruits. It is not in dispute that those goods were exported from USA as early as on 17.04.2018 and had reached Chennai Port, after nearly 3 months i.e. on 07.07.2018. Now, we are

in the month of October 2018. It is not known as to when those apples were actually plucked. When such being the facts and circumstances and when the fifth respondent has already given an adverse report against the edibility of the said fruits, this Court is not convinced to entertain this writ petition and issue any direction as sought for by the petitioner, who, in the considered view of this Court, is not having any locus standi to maintain this writ and seek such direction. Accordingly, this writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to M/s.N.Kolandaivelu, Advocate SR.NO.68089

+1cc to M/s.T.L.Thirumalaisamy, Advocate SR.NO.68405

VSNI(CO)

sm:16.10.2018

W.P.No.25731 of 2018